

REMARKS

In the Office Action, the Examiner rejected claims 1-63. By the present Response, Applicants cancel claims 10 and 23 without prejudice and add new claims 64 and 65. Upon entry of the amendments, claims 1-9, 11-22, and 24-65 will be pending in the present patent application. For at least the reasons set forth below, among others, Applicants respectfully submit that all of pending claims 1-9, 11-22, and 24-65 are allowable in their present form. Applicants respectfully request reconsideration of the above-referenced application in view of the following remarks, with particular regard to pages 17-22 of the present communication.

Incomplete Action

As a preliminary matter, it should be noted that *each claim* is independently patentable and must be addressed individually to properly account for the unique aspects recited therein. In the Office Action, the Examiner provided a blanket rejection that summarily grouped claims 1-5, 7-39, and 44-63 together and provided an incomplete list of various subject matter recited by only some of these claims that does not refer to any of the claims by number. *See* Office Action mailed January 10, 2006, pages 3-4. Upon review, it appears that the present Office Action fails to provide any rationale or support for the rejection of at least claims 11, 12, 16-19, 24, 28, 35, 37, 38, and 48-55.

Further, the Office Action alleges that a script interpreter for multi-component configuration data is inherently disclosed by the Senda reference, but provides none of the required supporting rationale or evidence in support of this assertion. *See* M.P.E.P. § 2112. As the Examiner may appreciate, in order to rely on a theory of inherency, the extrinsic evidence must make clear that the missing descriptive matter is *necessarily* present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. *In re Robertson*, 169 F.3d 743, 49 U.S.P.Q.2d 1949 (Fed. Cir. 1999) (emphasis added). The mere fact that a certain thing *may* result from a given set of circumstances is not sufficient. *Id.* In relying upon the theory of inherency, the Examiner

must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic *necessarily* flows from the teachings of the applied prior art. *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990) (emphasis in original). The Examiner, in presenting the inherency argument, bears the evidentiary burden and must adequately satisfy this burden. *See id.* As noted above, the present Office Action fails to provide any evidence that a script interpreter for multi-component configuration data is *necessarily* present in the Senda system.

Because the Examiner did not specifically address the subject matter of a number of these claims and did not provide even a *scintilla* of evidence in support of the alleged inherency of certain subject matter, Applicants respectfully assert that the wholesale rejection of claims 1-5, 7-39, and 44-63 is believed to be deficient in view of 37 C.F.R. § 1.104. Applicants respectfully remind the Examiner of his duties and obligations under 37 C.F.R. § 1.104 and M.P.E.P. § 707.07 and request that the Examiner clarify his rejection and specifically cite the presently recited features in a future non-final Office Action such that Applicants may have an adequate opportunity to properly respond.

Rejections Under 35 U.S.C. § 102

In the Office Action, the Examiner rejected claims 1-5, 7-39, and 44-63 under 35 U.S.C. § 102(e) as anticipated by Senda (U.S. Patent Publication No. 20020057849). Applicants respectfully traverse this rejection.

Legal Precedent

Anticipation under Section 102 can be found only if a single reference shows exactly what is claimed. *Titanium Metals Corp. v. Banner*, 227 U.S.P.Q. 773 (Fed. Cir. 1985). For a prior art reference to anticipate under Section 102, every element of the claimed invention must be identically shown in a single reference. *In re Bond*, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990). Moreover, the prior art reference also must show the

identical invention “*in as complete detail as contained in the ... claim*” to support a *prima facie* case of anticipation. *Richardson v. Suzuki Motor Co.*, 9 U.S.P.Q. 2d 1913, 1920 (Fed. Cir. 1989) (emphasis added). Accordingly, Applicants need only point to a single element not found in the cited reference to demonstrate that the cited reference fails to anticipate the claimed subject matter.

Omitted Features of Independent Claims 1, 22, 31, 44, and 58

Turning now to the present claims, the Senda reference fails to disclose each element of independent claims 1, 22, 31, 44, and 58. For instance, independent claim 1 recites “a dynamic configuration system for the plurality of medical diagnostic components.” Claim 1 also recites that the dynamic configuration system comprises “a configuration data distributor” and “a component-specific data extractor” of *multi-component configuration data*. Further, independent claim 22 recites both “a configuration data provider” and “a configuration data broadcaster” of *multi-component configuration data*. Independent claim 31 recites “a configuration data receiver for a distributable multi-component configuration file” and “a configuration data extractor of the extractable component-specific application data.” Additionally, independent claim 44 recites “distributing multi-component configuration data comprising extractable component-specific configuration data for a plurality of medical diagnostic components.” Independent claim 44 also recites “extracting the extractable component-specific configuration data ... at each component of the plurality of medical diagnostic components” and “processing the extractable component-specific configuration data extracted at each component.” Additionally, independent claim 58 recites “machine-readable code supported on the medium and comprising a broadcasting multi-component configuration system adapted to provide a multi-component configuration file having extractable component-specific configuration data for a plurality of medical diagnostic components.” Because the Senda reference fails to disclose *any* of these elements, let alone each of these elements, the cited reference fails to anticipate independent claims 1, 22, 31, 44, and 58.

Applicants again respectfully submit that the Examiner's reliance upon the Senda reference is simply unfounded. The Senda reference is generally directed to a method and apparatus for transferring images from imaging equipment to another device. Page 1, paragraph [0002]. Particularly, Senda teaches a network system 100 including various imaging modalities 50, workstations 10, and workstations 70. Page 2, paragraphs [0031]-[0032]. The imaging modalities 50 and workstations 10 and 70 are networked with each other to facilitate communication between the devices. *Id.* Images obtained by the modalities 50 may be viewed on the workstations 70. Page 2, paragraph [0036]. Further, workstations 70 are configured to output such images to workstations 10, which include an image viewer, a print server, and a file server. Page 2, paragraph [0037] - page 3, paragraph [0039]. Using the workstation 70, an operator may specify the image viewer, printers, database, or the like as a destination for the images. Page 3, paragraph [0040]. In short, the Senda reference is devoted to the *transference* of images on a network, *not configuring* devices or components of the network.

As noted previously, while the paragraphs cited by the Examiner do include the word "configuration," Applicants respectfully note that the term is used in the Senda reference to describe the physical layout of the network and to indicate that the workstations have been configured at some indiscriminate time. Page 3, paragraphs [0041]-[0047]. After careful analysis, Applicants have been unable to identify any structure or device in the Senda reference that can be reasonably compared to "a dynamic configuration system for the plurality of medical diagnostic components" as recited by independent claim 1. *Further, the Senda reference fails to disclose anything that could be equated with configuration data at all, let alone "multi-component configuration data."*

Consequently, the Senda reference cannot be reasonably relied upon to disclose a host of elements recited by independent claims 1, 22, and 31, including: "a configuration data distributor," "a component-specific data extractor," or any one of a configuration

data receiver, extractor, processor, provider, or broadcaster *of multi-component configuration data*. Similarly, because the Senda reference fails to disclose, or even mention, configuration data, the cited reference also fails to disclose “distributing multi-component configuration data” or the extracting and processing of such data, as recited by independent claim 44. Likewise, the Senda reference cannot be rationally considered to disclose “machine-readable code supported on the medium and comprising a broadcasting multi-component configuration system *adapted to provide a multi-component configuration file having extractable component-specific configuration data* for a plurality of medical diagnostic components” (emphasis added), as recited in independent claim 58. As a result of these numerous and readily apparent deficiencies, the Senda reference cannot support a *prima facie* case of anticipation. Accordingly, Applicants respectfully request withdrawal of the Examiner’s rejections of independent claims 1, 22, 31, 44, and 58, as well as the claims depending therefrom.

Response to Arguments by the Examiner

Applicants appreciate the Examiner’s recent efforts in trying to explain and clarify his rejection of the present claims. *See* Office Action mailed January 10, 2006, page 2. Particularly, in the Office Action, the Examiner stated:

Senda teaches a system configuration [0030], with plurality of medical diagnostic components coupled via a communications circuitry [0031], and a dynamic configuration system for the plurality of medical diagnostic components distributing and extracting component-specific data [0032]. The verification and transmission of the images and data between the various components as taught by Senda would necessarily involve configuration of the various imaging components as information is distributed to and extracted by the prescribed destination devices via the network [0036]. According to the broadest reasonable interpretation of the claims, Senda clearly reads on a multi- component medical diagnostic system configured to obtain and distribute data to the various components in the network as evident in the previously cited paragraphs. Applicant’s attention is re-directed to paragraphs [0041-0047], which clearly describes the configuration of the multi-component diagnostic system, where the data or images are transmitted and extracted by the specific component to the destination device.

Id. However, these assertions are based on several mischaracterizations or misunderstandings of the teachings of the cited reference, completely ignore certain recitations that modify the scope of the term “data” in the present claims, and do not otherwise overcome or rectify the apparent deficiencies of the Senda reference.

First, the Examiner alleges that paragraph [0032] discloses a dynamic configuration system for distributing and extracting component-specific data. *Id.* Paragraph [0032], in its entirety, states:

As mentioned above, the workstations 10 control devices for electronically manipulating medical images such as printers, viewers, and archives connected to the network. In addition, workstations 70 are linked to each modality through the network for performing verification and transmission processes. Both the workstations 10 and 70 are normally connected to the network using network interface cards (NIC).

Senda, paragraph [0032]. In other words, this passage generally notes that workstations, i.e. computers, can be connected to a network, which may include imaging systems, printers, viewers, and archives, for transmitting data across a network. Contrary to the Examiner’s assertion, this paragraph does not disclose a *configuration* data distributor configured to send *multi-component* configuration data to a particular component or a *component-specific* data extractor configured to extract a relevant portion of the multi-component configuration data.

Second, the Examiner relies on paragraph [0036] in support of the contention that verification and transmission of the images and data between the various Senda components would *necessarily* involve configuration of the various imaging components as images are sent from a workstation to another device. In actuality, however, paragraph [0036] merely suggests that a plurality of various modalities can be connected to a network, and that images obtained from these modalities may be sent to other devices on the network, e.g., a printer or another computer. *See also id.* at paragraph [0037] (noting that a workstation can be used to transfer *image* data and *attribute* data to a printer or

archive for storing the images). Nothing in this passage, however, can be reasonably considered as disclosing the transmission of multi-component configuration data or extraction of relevant portions thereof at a component to be configured.

Third, the Examiner suggests that paragraphs [0041-0047] describe the configuration of the multi-component diagnostic system, in which the images are transmitted and extracted by the specific component to the destination device. As noted previously, this passage merely describes the physical topology of the Senda system, i.e. how the devices of the Senda system are physically connected. *See, e.g., id.* at paragraph [0043]. At best, this passage merely describes physical aspects of the Senda system and components. Applicants do not disagree that the Senda system has a physical configuration. However, the mere fact that the reference uses the word “configuration,” or even that various devices of the Senda reference are capable of being configured, does not mean that both the teachings of the present specification and the particular claim recitations with respect to multi-component configuration data distribution and extraction of component-specific portions thereof can be ignored. These elements, among others, are simply absent from the Senda reference.

Further, Applicants respectfully remind the Examiner that M.P.E.P. § 2111 states that “[d]uring patent examination, the pending claims must be given there [*sic*] broadest reasonable interpretation *consistent with the specification*” (emphasis added). While limitations from the specification cannot be read into the claims, “reading a claim in light of the specification, to thereby interpret limitations explicitly recited in the claim is a quite different thing from ‘reading limitations of the specification into a claim...’” M.P.E.P. § 2111, *In re Prater*, 415F.2d 1393, 1404-05, 162 U.S.P.Q. 541, 550-51 (C.C.P.A. 1969).

During examination, the claims must be interpreted as broadly as their terms *reasonably* allow. This means that the words of the claims must be give their plain

meaning unless applicant has provided a clear definition in the specification. *In re Zletz*, 893 F.2d 319, 321, 13 U.S.P.Q.2d 1320, 1322 (Fed. Cir. 1989); M.P.E.P. § 2111.01.

“Words in patent claims are given their ordinary meaning in the usage of the field of the invention, unless the text of the patent makes clear that a word was used with a special meaning.” *In re Sneed*, 710 F.2d 1544, 218 U.S.P.QQ. 385 (Fed. Cir. 1983).

Applicants certainly appreciate the difficulty faced by the Examiner in interpreting the claims in view of the specification without improperly importing limitations from the specification into the claims. However, Applicants respectfully note that the Federal Circuit, sitting *en banc*, recently provided a summary and additional guidance regarding the proper interpretation of claims in view of the specification. *See Phillips v. AWH Corp.*, No. 03-1269, -1286 (Fed. Cir. 2005). In *Phillips*, the Federal Circuit again emphasized the primacy of the specification in claim interpretation. Particularly, the *Phillips* court noted that the specification “is always highly relevant to the claim construction analysis. Usually, it is dispositive; *it is the single best guide to the meaning of a disputed term.*” *Phillips*, slip op. at 13 (quoting *Vitronics Corp. v. Conceptronic, Inc.*, 90 F.3d 1576, 1582 (Fed. Cir. 1996)) (emphasis added). Moreover, the court also noted that:

Ultimately, the interpretation to be given a term can only be determined and confirmed with a full understanding of what the inventors actually invented and intended to envelop with the claim. The construction that stays true to the claim language *and most naturally aligns with the patent’s description of the invention* will be, in the end, the correct construction.

Phillips, slip op. at 15 (quoting *Renishaw PLC v. Marposs Societa’ per Azioni*, 158 F.3d 1243, 1250 (Fed. Cir. 1998)) (emphasis added).

In view of this binding legal precedent, Applicants respectfully submit that the claim interpretation provided in the Office Action mailed January 10, 2006, extends beyond the reasonable interpretation that would be afforded the claims by one skilled in the art in view of the specification. Particularly, the Examiner

appears to be choosing to ignore the various recitations with respect to the data of the present claims, including the recitations of *multi-component configuration* data, *multi-component behavioral* data, and a *multi-component configuration* file. Instead, the Examiner appears to be equating the specific types of data recited in the present claims with *any* data that can be transmitted by a computer. This construction reads specific recitations out of the claims, ignores the specification entirely, would not be reached by one skilled in the art, and simply cannot be sustained.

In the recent Office Action, the Examiner again made general reference to several paragraphs of the Senda reference in support of this improper rejection. Particularly, the Examiner pointed to several passages that generally noted the transmission and receipt of data and images by the workstations 10, 70, and 202. If the present claims were simply directed to the most general concept of data transmission, the Examiner's reliance on Senda might, hypothetically, be appropriate. However, the present application and claims clearly cannot be reasonably construed in this exceptionally broad manner. While the passages of the Senda reference relied upon by the Examiner may disclose computers capable of receiving, transmitting, and generating images and data, *nothing* in these passages disclose, teach, suggest, or even hint at transmitting *multi-component configuration* data, extracting or processing *component-specific configuration* data from *multi-component configuration* data, or the like, as variously recited by the instant claims.

Applicants again respectfully submit that the present rejection is based on an incomplete understanding or appreciation of the subject matter disclosed and claimed in the present application. Applicants respectfully suggest that a review of the detailed description of the present application, with particular regard to paragraphs [0016]-[0023], may be of great use to the Examiner during the examination process. Alternatively, if the Examiner would prefer, Applicants kindly invite the Examiner to contact the undersigned

representative to discuss the significant differences between the present claims and the teachings of the Senda reference.

Should the Examiner decide to maintain the current rejection, Applicants respectfully request that the Examiner fulfill his obligations under 37 C.F.R. § 1.104 and particularly point out which elements of the Senda apparatus the Examiner believes are somehow comparable to the elements of the instant claims. Particularly, discussion of those portions of the reference the Examiner believes to disclose *configuration* data, *multi-component* configuration data, the transmission of such data, and the extraction of *component-specific portions* of such data, would be greatly beneficial in advancing prosecution of this case.

For at least these reasons, among others, Applicants respectfully request withdrawal of the rejections under 35 U.S.C. § 102 and allowance of claims 1-5, 7-9, 11-22, 24-39, and 44-63.

Rejections Under 35 U.S.C. § 103

In the Office Action, the Examiner rejected claim 6 under 35 U.S.C. § 103(a) as unpatentable over Senda in view of Rosenfeld et al. (U.S. Patent No. 6,804,656). The Examiner also rejected claims 40-43 as unpatentable over Senda in view of Madsen et al. (U.S. Patent No. 5,827,942). Applicants respectfully traverse these rejections.

Legal Precedent

The burden of establishing a *prima facie* case of obviousness falls on the Examiner. *Ex parte Wolters and Kuypers*, 214 U.S.P.Q. 735 (PTO Bd. App. 1979). Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention absent some teaching or suggestion supporting the combination. *ACS Hospital Systems, Inc. v. Montefiore Hospital*, 732 F.2d 1572, 1577, 221 U.S.P.Q. 929, 933 (Fed. Cir. 1984). Accordingly, to establish a *prima facie* case, the Examiner

must not only show that the combination includes *all* of the claimed elements, but also a convincing line of reason as to why one of ordinary skill in the art would have found the claimed invention to have been obvious in light of the teachings of the references. *Ex parte Clapp*, 227 U.S.P.Q. 972 (B.P.A.I. 1985).

Omitted Features of Independent Claim 40

Applicants respectfully note that the Senda and Madsen et al. references, taken alone or in hypothetical combination, fail to disclose each element of independent claim 40. For instance, independent claim 40 recites distribution means for distributing “*multi-component behavioral data* to a plurality of medical diagnostic components” (emphasis added). Also, claim 40 recites processing means for “processing *component-specific portions of the multi-component behavioral data* at each of the plurality of medical diagnostic components” (emphasis added). Similar to the discussion above, the Senda reference fails to teach anything remotely comparable to either “multi-component behavioral data” or “processing component-specific portions” of such data. Further, the Madsen et al. reference does nothing to obviate these glaring deficiencies of the Senda reference. Because the cited references, taken alone or in hypothetical combination, fail to disclose such elements, the cited references cannot support a *prima facie* case of obviousness with respect to independent claim 40 or its dependent claims.

Dependent Claim 6

Applicants note that claim 6 depends from independent claim 1. As discussed above, the Senda reference fails to disclose each element of independent claim 1. Further, the Rosenfeld et al. reference does nothing to obviate the deficiencies of the Senda reference. As a result, dependent claim 6 is allowable on the basis of its dependency from a respective allowable independent claim, as well as for the subject matter separately recited in this dependent claim. Accordingly, Applicants respectfully request withdrawal of the Examiner’s rejection and allowance of claim 6.

For at least these reasons, among others, Applicants respectfully request withdrawal of the rejections under 35 U.S.C. § 103 and allowance of claims 6 and 40-43.

New Claims

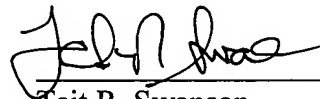
New claims 64 and 65 have been added by this Response. These new claims add no new matter and are fully supported throughout the specification. Furthermore, in view of the present cancellation of claims 10 and 23, no fees are believed due for the addition of claims 64 and 65 in this Response. These new claims are believed allowable for their dependency from an allowable independent claim, as well as by virtue of the subject matter separately recited by these dependent claims. Accordingly, Applicants respectfully request allowance of dependent claims 64 and 65.

Conclusion

In view of the remarks set forth above, Applicants respectfully request allowance of the pending claims. If the Examiner believes that a telephonic interview will help speed this application toward issuance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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Tait R. Swanson
Reg. No. 48,226
FLETCHER YODER
P.O. Box 692289
Houston, TX 77269-2289
(281) 970-4545